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State and Local Fusion Centers: Emerging Trends and Issues

Kevin D. Eack

INTRODUCTION

The proliferation of state and local fusion centers and the efforts to partner them with the intelligence community have been compared to organizing a new little league baseball team. Just as each team in a league has different strengths and weaknesses each center has a different set of skills, abilities, and equipment.¹ This paper provides a brief overview of the present status of state and local fusion centers, as well as the current policy issues and obstacles these centers face.

Counter Terrorism: Not a New Mission for State and Local Law Enforcement

Combating terrorism in the United States is not a new concept for state and local law enforcement. There are a number of examples where state and local law enforcement have played a key role in detecting terrorist activity. A simple traffic stop of a subject on April 19, 1995, by an Oklahoma state trooper, for driving a vehicle without a license plate resulted in the arrest of Timothy McVeigh for the bombing of the Alfred P. Murrah Federal Building.² On May 31, 2003, a local patrolman arrested the notorious Eric Robert Rudolph, a domestic terrorist who was on the Federal Bureau of Investigation's (FBI) Ten Most Wanted List for a series of bombings including one at the 1996 Olympics. Rudolph was the subject of a tenacious manhunt in the Appalachian Mountains for several years before being arrested by a local police officer on routine patrol in the small town of Murphy, North Carolina. Rudolph specifically targeted police and other first responders with secondary devices in some of his bombings.³ On April 4, 1980, the deadly Fuerzas Armadas de Liberacion Nacional (FALN), a small, heavily armed terrorist organization responsible for over 100 bombings in major cities including Chicago, New York, and Miami suffered its most serious setback when its members were arrested by patrolmen in Evanston, Illinois, as they assembled in a park with several stolen vehicles, thirteen weapons, disguises, and false identifications, preparing to heist an armored truck at the prestigious Northwestern University.⁴

Intelligence Not New to State and Local Law Enforcement

While the concept of "fusion centers" is certainly new, many states have had a centralized intelligence system of some sort for decades. Typically, these have been housed in state police agencies, as a central repository on intelligence related to violent gangs, drug trafficking, prostitution, child exploitation, weapons smuggling, theft rings, and other crimes. In those states with a major city or county police department (such as New York, Los Angeles and Chicago) those agencies have also operated intelligence units. For many states today's fusion center is simply an extension of these intelligence units, with a higher degree of vertical (federal intelligence community) and horizontal (state/local) collaboration. Some have compared today's fusion centers with "state police intelligence units on steroids."⁵

What is new is the mission of preventing international terrorist attacks on U.S. soil and law enforcement is adjusting to a new enemy with new methods. Law enforcement organizations are also adjusting to new operational issues that were previously not areas of concern. According to Congressional testimony these include:

1. The absence of a cohesive federal strategy regarding information sharing,
2. Too many federal information sharing networks, and
3. An inability or unwillingness on the part of the Department of Homeland Security (DHS) and the FBI to work effectively together.⁶

One example of an obstacle created by the lack of coordination between DHS and the FBI is security clearances. State and local fusion centers are required to have security clearances in order to receive, analyze, store, and disseminate classified material. Yet, in many cases it is reported the FBI is unwilling to accept those with DHS security clearances. In still other cases, DHS requires verification that someone from a state or major city possesses an FBI clearance through a process where the clearance is “passed” or certified to DHS from the FBI. Such problems can prove frustrating to state and local partners who are doing all they can to perform their role in homeland security.⁷

Another example is the apparent mission overlap between DHS and the FBI. A primary mission for many state and local fusion centers is collecting, analyzing, and disseminating critical infrastructure data to DHS. Since the creation of the department, DHS has conducted several data calls in order to populate the national critical infrastructure database. It also adopted the Automated Critical Asset Management Systems (ACAMS) system from the Los Angeles Police Department as a nationwide system to manage this data, urging state fusion centers to utilize this system.

Yet the FBI has continued to operate a critical infrastructure protection program of its own, called Infraguard, which is quite popular in some states among the private stakeholders. This presents a number of challenges for state and local fusion centers, which often find they are “caught in the middle,” trying to show a cooperative spirit between both agencies while also trying to maintain credibility with their private stakeholders who own, operate, and have a vested interest in protection of critical infrastructure. Some in the private sector complain that the “federal government needs to get its act together” on this important issue soon, as its efforts appear to be disjointed and uncoordinated.⁸

State and local stakeholders who operate fusion centers are often frustrated with trying to provide the necessary information to both agencies. In order to be effective, fusion centers need to work with both the FBI and DHS; the FBI is a critical partner and DHS provides needed funding. According to one state fusion center commander, “we are anticipating this to be very challenging.”⁹

As a recent Congressional report highlights, the evolution of state and local fusion centers leaves a number of looming issues.¹⁰ One issue is that many state and local fusion centers are in some ways less familiar with civil liberties issues and the federal regulations regarding intelligence storage, handling, and dissemination. As a result, more privacy concerns are likely to develop due to unintentional violations of intelligence rules.

Fusion centers also face a number of long-term issues. Congress provided substantial resources to support the DHS grant program in the years following the 9/11 attacks. As time passes, such funding may taper off, leaving insufficient funding for fusion center operations.¹¹ As those who have opened and operated such centers know, while funding sources have varied widely from state to state the majority of states have leveraged homeland security funds for equipment and analysts, subject to certain limitations imposed by DHS.¹²

One of the most significant issues found in the Congressional research has been the absence of a well-defined long-term role for state and local fusion centers. According to testimony by Eileen Larence, Director of Homeland Security and Justice Issues

The federal government has not clearly articulated the long term role it expects to play in sustaining fusion centers. It is critical for center management to know whether to expect continued federal resources, such as personnel and grant funding, since the federal government, through an information sharing environment, expects to rely on a nationwide network of centers to facilitate information sharing with state and local governments.¹³

According to Congressional findings, there are currently fifty-eight fusion centers at the state and local level. Forty-three are considered operational, while fifteen are in various stages of development. Nine centers opened shortly after the attacks of September 11, 2001. Thirty-four became operational after January, 2004. At least thirty-four fusion centers report employing federal personnel.¹⁴

While many efforts have been made by the federal government to support fusion centers, many fusion center officials report challenges accessing and managing multiple information systems. The FBI's Law Enforcement Online (LEO) system and the DHS Homeland Security Information Network (HSIN) are mentioned prominently in the Congressional reports. These multiple systems are reported to be causing "information overload" at many centers, often with redundant information.¹⁵ To compound the problem, DHS continues to change the information-sharing platform, making it a challenge to establish stability among the fusion centers. Initially many fusion centers were operating on the Joint Regional Information Exchange System (JRIS), but then DHS directed they move to the HSIN system. Recent announcements suggest that platform will also soon be changing.¹⁶

For many fusion center officials at the state and local level, the single biggest concern is sustainability. Van Godsey, director of the Missouri Information and Analysis Center (MIAC) states it this way:

With this tremendous focus on fusion centers, my concern is sustainability of these centers and the national effort. Currently, any federal funding for fusion centers is located within the federal allocation to the states. The use of these funds is subject to local demands, politics and views that may not always be supportive of the fusion center effort. If the federal government is going to look at the fusion centers and expect minimum capabilities, then I believe there are going to have to be controls to ensure a minimum level of funding.¹⁷

Godsey advocates specific line item funding for fusion centers instead of the present method of funding.¹⁸

As Congressional reports point out, ultimately the federal government needs to make a policy decision about the future of state and local fusion centers. As one report states, a number of questions need to be answered including the following:

1. Do fusion centers solve the pre-9/11 information sharing problems, and as such, make Americans safer?
2. Can fusion centers work if they aren't part of an integrated philosophy of intelligence and security?
3. Who benefits from fusion centers? Who should staff, fund, and oversee them? What role, if any, should fusion centers play in the Intelligence Community (IC)? What role should federal agencies play in fusion centers, to include funding?
4. Is some basic level of common standards necessary in order for fusion centers to offer a national benefit? Does the federal government have an integrated national fusion center strategy? How is their performance to be measured?
5. Is the current configuration of forty-plus fusion centers, with multiple centers in some states the most efficient way to structure them?¹⁹

2007 National Strategy for Information Sharing

The recent release of the *National Strategy for Information Sharing* in October, 2007, certainly supports earlier Congressional findings that more federal leadership with regard to fusion centers is needed.²⁰ Referencing Guideline 2 of the president's December 16, 2006 *Memorandum to Heads of Executive Departments and Agencies*, the strategy calls for a "common framework" to be developed governing the roles and responsibilities between the federal government, state, local, and tribal governments, and private sector entities.²¹

The strategy also acknowledges the important role of state and local fusion centers as follows: "State and major urban area fusion centers are vital assets critical to sharing information related to terrorism. They will serve as the primary focal points within the State and local environment for the receipt and sharing of terrorism-related information."²²

The strategy also contemplates how state and local fusion centers may scrub and further disseminate classified terrorism-related intelligence to others in the region.

Federal departments and agencies will provide terrorism-related information to State, local and tribal authorities primarily through these fusion centers. Unless specifically prohibited by law, or subject to security classification restrictions, these fusion centers may further customize such information for dissemination to satisfy intra- or inter State needs.²³

Additionally, the *National Strategy* addresses the important issue of public and private collaboration to protect critical infrastructure. "This Strategy builds on these efforts to adopt an effective framework that ensures a two way flow of timely and actionable security information between public and private partners." It also acknowledges the sensitivity of critical infrastructure information provided by the private sector and the importance of maintaining the confidentiality of such data when it is provided to governmental units.²⁴

CONCLUSION

With proper support and guidance of state and local fusion centers, one can easily imagine a time when the U.S. has a significantly stronger situational awareness within its borders than we presently have today. To be sure, there are many issues on the road ahead. Staffing, training, intelligence-handling procedures, benchmark capabilities, and sustained funding are among those issues. However, from the perspective of state and local fusion centers, great strides are being made in creating a lasting network across the nation through which terrorism-related threat intelligence can be effectively shared. In some cases that capability extends to “all crimes” and “all hazards.” Those in the intelligence community who may have at first doubted these centers would ever play a role in our national security, now see these fusion centers gaining in strength and sophistication. In some cases, these centers are breaking new ground in the use of new and innovative methods for effective intelligence collection, analysis, and dissemination.²⁵ It is important to remember that state and local law enforcement have always had a public safety mission, dating back to the first county sheriffs. Given the tragic events of September 11, 2001, no one should underestimate the resolve and determination of state and local public safety agencies to do their part in keeping Americans safe.

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¹ Matthew M. Johnson, “Number of Databases Boggling Down Fusion Centers,” *Congressional Quarterly*, October 9, 2007, www.cq.com. See also General Accounting Office, *Federal Efforts Are Helping to Alleviate Some Challenges Encountered by State and Local Information Fusion Centers*, GAO-08-35, October 2007, <http://www.gao.gov/new.items/d0835.pdf>.

² Trial testimony, <http://www.law.umkc.edu/faculty/projects/ftrials/mcveigharrest.html>.

³ Maryanne Vollers, “Lone Wolf, Eric Rudolph: Murder, Myth and the Pursuit of an American Outlaw,” (Harper Collins, 2006); see also www.cnn.com/2003/us/05/31/rudolph.main/.

⁴ CBS News, April 7, 1980, <http://openweb.tvnews.vanderbilt.edu/1980-4/1980-04-07-CBS-22.html>.

⁵ Todd Masse and John Rollins, *A Summary of Fusion Centers: Core Issues and Options for Congress* (Congressional Research Service, September 19, 2007).

⁶ Johnson, “Number of Databases Boggling Down Fusion Centers.” See also GAO, *Federal Efforts Are Helping to Alleviate Some Challenges*.

⁷ Interview with Major Monte McKee, Indiana Intelligence Fusion Center, November 26, 2007.

⁸ Interview with Michael Crane, co-chair of the Illinois Terrorism Task Force Private Sector Committee, and Vice President and General Counsel for IPC International, a private security firm whose clients include most major malls in the U.S., and those in four other countries, November 26, 2007.

⁹ Interview with Major Monte McKee.

¹⁰ Masse and Rollins, "A Summary of Fusion Centers."

¹¹ Ibid.

¹² Electronic survey of Midwest fusion center commanders by author, July 2007.

¹³ Testimony of Eileen R. Larence, September 27, 2007 Before the Subcommittee on Intelligence, Information Sharing and Terrorism Risk Assessment, Committee on Homeland Security, House of Representatives, GAO-07-1241T.

¹⁴ Ibid.

¹⁵ Ibid, 8.

¹⁶ Federal Computer Week, *DHS to Modify Info-Sharing Network*, January 21, 2008, <http://fcw.com/online/news/151380-1.html>.

¹⁷ Interview with Director Van Godsey, Missouri Information and Analysis Center, November 26, 2007.

¹⁸ Ibid.

¹⁹ Masse and Rollins, "A Summary of Fusion Centers," 4.

²⁰ *National Strategy for Information Sharing, October 2007*. <http://www.whitehouse.gov/nsc/infosharing>.

²¹ Ibid, 17.

²² Ibid, 20.

²³ Ibid, 21.

²⁴ Ibid, 21.

²⁵ Microsoft Corporation, *Microsoft and Illinois State Police Collaborate on Best Practices and Information Technology Architecture for Homeland Security Fusion Centers*, December 5, 2007, <http://www.microsoft.com/presspass/press/2007/dec07/12-05MSILPolicePR.mspx>.